IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 1968 of 2005

Between:

1.Md. Yaseen S/o Late Md. Dawood
R/o E.B. 106, HZL Township, Visakhapatnam
2.Smt. Minaz Parven W/o Shaik Hussain
R/o E.B. 106, HZL Township, Visakhapatnam
3.Smt. Meharunnisa Begum W/o Md. Ali
R/o E.B. 106, HZL Township, Visakhapatnam
4.Md. Dawood S/o Late Yaseen
R/o E.B. 106, HZL Township, Visakhapatnam

..... PETITIONERS

AND

1 The Revenue Divisional Officer, Visakhaptnam
2 The Mandal Revenue Officer, Pedagantyada (M) Visakhapatnam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ or direction preferably Writ of Mandamus declaring the Memo L.Dis.No.4721/04 dt 18-1-2005 issued by 1st respondent, to the extent of returning the appeal instead of issuing necessary directions for rectification of survey numbers in the pattas and other revenue records in so far as the petitioners are concerned as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents to rectify the survey numbers in the patta of the petitioners and incorporate the survey number 176(Part) instead of Sy.Nos.472/1, 472/2, 473/1 and 473/2 situated at Nadupuru(V) Pedagantyada (M) Visakhapatnam District on the basis of Survey report submitted by Asst. Director of Survey and land Records, Visakhapatnam issue in his letter dt 21-8-2004, then issue pattedar pass books and title deeds to the petitioners and pass such other or further orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORDER:

The petitioners claim to be in possession and enjoyment of the land admeasuring Ac.19-92 cents in Survey No.176 situated at Nadupuru (v), Pedagantyada (M), Visakhapatnam District. It is claimed that D-Form pattas were also granted in favour of their predecessors in title and that they have been in peaceful possession and enjoyment of the said land by cultivating the same. However, when the petitioners applied for the pattadar pass books and title deeds, the second respondent refused to grant the same by order dated 20.12.2004 on the ground that the D-Form pattas show different Survey numbers i.e., Survey Nos.472/1, 472/2, 473/1 and 473/2 whereas the petitioners are claiming title and possession in respect of Survey No.176. Aggrieved by the said order, the petitioners preferred an appeal before the first respondent under Section 5 (b) of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). The said appeal was returned by the first respondent by order dated 18.01.2005 stating that on inspection it was noticed by him that the pattas were issued in some survey numbers and the land in question is situated in other survey numbers and that the same requires rectification. It is also stated that the matter does not attract the provisions of the Act. The said order is under challenge in this writ petition.

I have heard the learned counsel for the petitioners and the learned Government Pleader for Revenue appearing for the respondents.

Having regard to the facts and circumstances, I find force in the

submission of the learned counsel for the petitioners that before passing the impugned order, the principles of natural justice require issuing a notice thereby affording an opportunity to the petitioners to explain the allegations. Admittedly, the impugned order was passed without prior notice to the petitioners on the basis of an inspection said to have been conducted by the respondents. In the circumstances, the impugned order dated 18.01.2005 being in violation of principles of natural justice is liable to be set aside.

Accordingly, without expressing any opinion on merits, the writ petition is disposed of setting aside the impugned order dated 18.01.2005 and directing the first respondent to consider the matter afresh and pass appropriate orders in accordance with law after due notice to the petitioners as well as to all other parties concerned within a period of two months from the date of receipt of this order. No costs.

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16.02.2005

Note: Issue CC in one week

(b/o)

VGB

To

1 The Revenue Divisional Officer, Visakhaptnam
2 The Mandal Revenue Officer, Pedagantyada (M) Visakhapatnam District

3 2CCs to the G.P. for Revenue, High Court Buildings, Hyderabad. (OUT)

4 2CD copies